



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Gardner Lane  
Telephone: 571-272-4683  
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MAILED

MAR 21 2007

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Patentees: RYAN  
Application No.: 09/378,608, now Patent No.  
6,200,500, granted 03/13/01  
Filed: 08/20/99  
For: Hematology control and system for multi-parameter hematology measurements

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,522.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/Sally Gardner Lane/  
SALLY GARDNER LANE  
Administrative Patent Judge

Paper 1

Mail Stop Interference  
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Filed 21 March 2007

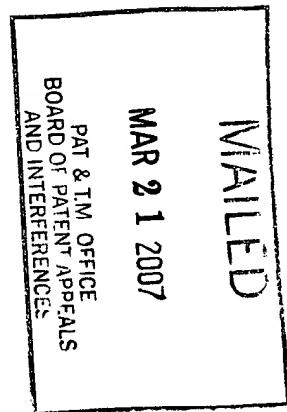
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

ALAN M. JOHNSON  
Junior Party  
(Application 10/086,995),

v.

WAYNE L. RYAN and JOHN SCHOLL<sup>1</sup>  
Senior Party  
(Patents 6,221,668, 6,200,500, 6,399,388, 6,403,377,  
and 6,406,915).



Patent Interference No. 105,522  
(Technology Center 1700)

**DECLARATION - Bd.R. 203(b)<sup>2</sup>**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

<sup>1</sup> Only Ryan is listed as an inventors of patent 6,200,500.

<sup>2</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

**Part B. Judge managing the interference**

Administrative Patent Judge Sally Gardner Lane has been designated to manage the interference. Bd. R. 104(a).

**Part C. Standing order**

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

**Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **2:00 p.m. on 16 May 2007** (the Board will initiate the call).

No later than **four business days** prior to the conference call, each party shall file and serve (SO §§ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO §§ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. Identification and order of the parties**

**Junior Party**

Named inventors: Alan M. Johnson of New Brighton, MN  
Involved Application: 10/086,995, filed 28 February 2002  
Title: RETICULOCYTE CONTAINING COMPLETE BLOOD  
CONTROL  
Assignee: Research & Diagnostic Systems, Inc.

**Senior Party**

Named Inventors: Wayne L. Ryan and John Scholl, both of Omaha, NE  
Involved Patents: 6,221,668, issued on 24 April 2001, from application  
09/504,816, filed 16 February 2000  
6,200,500, issued on 13 March 2001, from application  
09/378,608, filed 20 August 1999  
6,399,388, issued on 4 June 2002, from application  
09/740,509, filed 19 December 2000  
6,403,377, issued on 11 June 2002, from application  
09/934,463, filed 21 August 2001  
6,406,915, issued on 18 June 2002, from application  
09/934,402, filed 21 August 2001  
Title: HEMATOLOGY CONTROL AND SYSTEM FOR MULTI-  
PARAMETER HEMATOLOGY MEASUREMENTS<sup>3</sup>  
Assignee: Streck Laboratories

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO § 154.2.1. The senior party is responsible for initiating settlement discussions. SO § 126.1.

#### **Part F. Count and claims of the parties**

##### **Count 1**

Claim 46 of Johnson (10/086,995) or claim 1 of Ryan (6,221,668).

The claims of the parties are:

Johnson: 1, 7-11, 17-19, 21-29, 31-40, 42, 43, 46-49, 52, 54-62, 64,  
65, 67-73, 77-86

Ryan '668: 1-31

Ryan '500: 1-32

Ryan '388: 1-20

Ryan '377: 1-53

Ryan '915: 1-53

The claims of the parties which correspond to Count 1 are:

Johnson: 1, 7-11, 17-19, 21-29, 31-40, 42, 43, 46-49, 52, 54-62, 64,  
65, 67-73, 77-86

Ryan '668: 1-31

Ryan '500: 1-32

Ryan '388: 1-20

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<sup>3</sup>Each of the involved Ryan patents has the same title.

Ryan '377: 1-53

Ryan '915: 1-53

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Johnson: None

Ryan '688: None

Ryan '500: None

Ryan '388: None

Ryan '377: None

Ryan '915: None

The parties are accorded the following benefit for Count 1:

Johnson: US 09/419,991, filed on 18 October 1999

Issued as 6,444,471 on 03 September 2002

Ryan: US 09/378,608, filed 20 August 1999, issued as patent

6,200,500 on 13 March 2001

US 09/740,509 filed on Dec. 19, 2000, issued as patent

6,399,388 on 4 June 2002

US 09/504,816, filed on Feb. 16, 2000, issued as patent

6,221,668 on 24 April 2001

**Part G. Heading to be used on papers**

The following heading must be used on all papers filed in this interference, see SO & 106.1.1:

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Patent Interference No. 105,522

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**Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Sally Gardner Lane/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Copy U.S. Patents 6,221,668; 6,200,500; 6,399,388; 6,403,377 and 6,406,915  
Copy of claims of 10/086,995

Revised 3 January 2006

cc (via overnight delivery):

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